IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1649 OF 2003

IN

SUIT NO.3189 OF 2001

IIT Capital Services Ltd. ..Plaintiff.

V/s.

EURO Cotspin Ltd. & Anr. ..Defendants.

Mr.Narayan Sahu i/v. S.K. Srivastav for plaintiff.

CORAM : J.P.DEVADHAR, J.

DATED : 8TH DECEMBER, 2004.

P.C. :-

. Heard the learned counsel for the plaintiff. None for the defendant though served.

2. This chamber summons is taken out by the plaintiff inter alia seeking an order directing the Court Receiver to take physical possession of the suit articles as more particularly set out in Exhibit-A to the plaint and hand over the same to the plaintiff.

3. The plaintiff has filed a suit for recovery of sum of Rs.82,81,238/- together interest thereon at the rate of 36% or at such other rate as the Court deems fit from 1/8/2000 till the realisation. By an order dated 1/10/2001 passed in Notice of Motion No.2321 of 2001 the Court Receiver was appointed in respect of the suit articles as more particularly described in Exbibit-A to the plaint with directions to the Court Receiver to appoint the defendant as an agent of the Court Receiver on usual terms and conditions, including payment of royalty.

4. Accordingly, the Court Receiver took the possession of the suit articles and appointed the defendant as an agent of the Court Receiver. The Court Receiver, after hearing the parties, fixed the monthly royalty at Rs.70,000/- p.m. in respect of the suit machinery and directed the first defendant to pay the said royalty amount from 1/10/2001, being the date on which the order was passed in Notice of Motion No.2321 of 2001. In spite of the aforesaid order, the defendants have failed and neglected to pay the royalty amount fixed by the Court Receiver. Hence this chamber summons is taken out seeking the relief as stated hereinabove.

5. The defendants though served have not chosen to file any affidavit-in-reply to the chamber summons nor the defendants are present in the Court when the chamber summons is called out for hearing. It is the case of the plaintiff that the machinery belonging to the plaintiff were given to the defendant under hire purchase agreement and as the defendants failed to pay hire charges, the suit was filed. Even after the Court order, the defendants have failed to pay the royalty charges fixed by the Court Receiver. In these circumstances, the chamber summons is made absolute in terms of prayer clauses (a) & (b).

. Chamber summons is disposed of accordingly. However, there will be no order as to costs.

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